

# CLASS VI UIC PROGRAM DELEGATION TO THE LOUISIANA DEPARTMENT OF NATURAL RESOURCES

## ISSUE SUMMARY:

In February 2018, IRS Rule 45Q was revised as part of the Bipartisan Budget Act of 2018, increasing the tax credit for to \$50 per metric ton for secure geologic storage of CO<sub>2</sub> by 2026. In June 2019, EPA received notification from Louisiana Department of Natural Resources that the agency was beginning development work on state Class VI rules with goal of obtaining Class VI UIC program primacy. Currently Louisiana Department of Natural Resources is in the pre-application phase of the primacy process, having submitted draft regulations and a regulatory crosswalk for EPA review.

## UPCOMING MILESTONES:

- **1<sup>st</sup> Quarter 2021** – Louisiana Department of Natural Resources expects to submit a complete Class VI primacy package to EPA for review and have published state Class VI regulations in the Louisiana Register.

## BACKGROUND:

In February 2018, with passage of the Bipartisan Budget Act of 2018, the tax credits for CO<sub>2</sub> geo-sequestration under Internal Revenue Code (IRC) Section 45Q were revised to \$50 per metric ton for secure geologic storage with the credit increasing annually until full value is reached in 2026 for qualified facilities whose construction begins by January 1, 2024. Federal Class VI UIC rules governing CO<sub>2</sub> geo-sequestration were originally promulgated in December 2010 as 40 CFR 146 Subpart H.

The EPA has been reviewing various guidances and federal Class VI regulations in preparation for the anticipated workload associated with Class VI permitting, stemming from the revisions to IRC Section 45Q for tax credits for capture and secure geologic storage of CO<sub>2</sub>.

In June 2019, Louisiana Department of Natural Resources informed EPA that the agency had begun regulatory development on state Class VI rules with the objective of obtaining Class VI UIC primacy.

Louisiana Department of Natural Resources has revised its state UIC regulations to align Louisiana statutory law with Class VI injection well federal regulations. On April 2, 2020, Louisiana Department of Natural Resources submitted their draft Class VI rules and a regulatory crosswalk comparing state regulations with federal standards to demonstrate that they are as stringent.

EPA arranged for an initial review of Louisiana Department of Natural Resources' draft rules and the crosswalk by their technical contractor, Cadmus. Cadmus is experienced in these reviews as they have participated in the review process for the approved Class VI primacies for both North Dakota and Wyoming.

Louisiana Department of Natural Resources and EPA have formed a "virtual" committee to coordinate the primacy revision process. EPA have provided copies of federal Class VI rules, technical guidances, and other information to assist Louisiana Department of Natural Resources in their primacy package development.

Should a Class VI well application for a Louisiana project be submitted to EPA prior to Louisiana Department of Natural Resources' primacy approval, contractor support from EPA would be required due to lack of resources and technical expertise. Louisiana Department of Natural Resources has indicated there are at least 15 Class VI project applicants with an average of 4 wells per project that may be submitted over the next 6-12 months.

In addition to Louisiana, EPA has also received at least 4 other project inquiries and participated in multiple technical engagements with industry on potential Class VI activities in Arkansas, New Mexico, and Texas

#### KEY EXTERNAL STAKEHOLDERS:

☒ Congress      ☒ Industry      ☒ States      ☐ Tribes      ☒ Media      ☐ Other Federal Agency  
☐ NGO      ☒ Local Governments      ☐ Other (name of stakeholder) \_\_\_\_\_

Class VI interest has been significant as EPA has been contacted by phone and email by reporters, various technical consultants, potential applicants, and investor groups seeking information on potential projects and the Class VI permitting process along with the various technical requirements.

In the primacy pre-application phase, Louisiana Department of Natural Resources and EPA remain in regular communication via email updates and meetings.

#### MOVING FORWARD:

The Louisiana Department of Natural Resources primacy application process will continue with an anticipated final primacy approval in the first quarter of 2022. EPA will continue to provide support for Louisiana Department of Natural Resources throughout the primacy process.

LEAD OFFICE/REGION: REGION 6

OTHER KEY OFFICES: OGWDW